

REMARKS

Claims 1-2, 4-13 and 21-24, 26 and 29-33 are all the claims presently pending in the application. Claims 1, 4-8, 23-24, 26 and 29 have been amended. Claims 3 and 25 have been canceled. Claim 30 has been withdrawn. Claims 31-33 have been added.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-13, 21-26 and 29-30 stand rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement and the enablement requirement. Applicant notes that claim 1 (and similarly in claim 29) has been amended to recite "*wherein said shelf control unit receives said signal from said transceiver of said hand-held unit and causes a section of said plurality of illuminating sections which corresponds to said item of merchandise to illuminate based on said signal*" which is clearly described in the present Application (e.g., see Application at page 10, line 15-page 13, line 4). In view of the foregoing the Examiner is respectfully requested to withdraw this rejection.

Claims 1-13, 21-26 and 29-30 stand rejected under 35 U.S.C. § 112, first paragraph as being allegedly indefinite. Applicant notes that claim 1 (and similarly in claim 29) has been amended to recite "*wherein said shelf control unit receives said signal from said transceiver of said hand-held unit and causes a section of said plurality of illuminating sections which corresponds to said item of merchandise to illuminate based on said signal*" which is clearly described in the present Application (e.g., see Application at page 10, line 15-page 13, line 4). In view of the foregoing the Examiner is respectfully requested to withdraw this rejection.

Claims 1-13, 21-26 and 28-29 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Swartzel et al. (U. S. Pat. No. 6,552,663) in view of Marvin (U. S. Patent No. 5,575,100) and further in view of Johnson (U.S. Pat. No. 6,624,757) and Garber (U. S. Patent No. 7,044,373).

This rejection is respectfully traversed in view of the following discussion.

I. THE CLAIMED INVENTION

An exemplary aspect of the claimed invention (e.g., as defined by claim 1) is directed to a system for restocking and repricing merchandise. The system includes a shelf label which displays information regarding plural items of merchandise, a shelf label holder which holds the shelf label and includes an illuminating device including a plurality of illuminating sections corresponding respectively to the plural items of merchandise, the shelf label holder including a shelf control unit for controlling an illumination of the plurality of illuminating sections, the shelf control unit including a transceiver for wirelessly transmitting and receiving signals, and a hand-held unit including an input device for inputting information regarding an item of merchandise of the plural items of merchandise, and a transceiver which wirelessly transmits a signal to the shelf control unit based on the input information regarding the item of merchandise.

Importantly, the shelf control unit receives the signal from the transceiver of the hand-held unit and causes a section of the plurality of illuminating sections which corresponds to the item of merchandise to illuminate based on the signal (Application at Figure 2; page 10, line 15-page 13, line 4).

This feature may help guide a store clerk to a correct store location for restocking and/or repricing merchandise (Application at page 2, lines 13-16).

II. THE ALLEGED PRIOR ART REFERENCES

The Examiner alleges that Swartzel would have been combined with Marvin and Johnson and Garber to form the invention of claims 1-13, 21-26 and 28-29. Applicant would submit, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

In particular, Applicant respectfully submits that these alleged references are unrelated. Indeed, no person of ordinary skill in the art would have considered combining these disparate references, absent impermissible hindsight.

In fact, Applicant submits that the references provide no motivation or suggestion to urge the combination as alleged by the Examiner. Indeed, these references clearly do not teach or suggest their combination. Therefore, Applicant respectfully submits that one of ordinary skill in the art would not have been so motivated to combine the references as

alleged by the Examiner. Therefore, the Examiner has failed to make a prima facie case of obviousness.

Moreover, neither Swartzel, nor Marvin, nor Johnson, nor any alleged combination thereof teaches or suggests "*wherein said shelf control unit receives said signal from said transceiver of said hand-held unit and causes a section of said plurality of illuminating sections which corresponds to said item of merchandise to illuminate based on said signal*", as recited, for example, in claim 1 and similarly recited in claim 29 (Application at Figure 2; page 10, line 15-page 13, line 4). As noted above, this feature may help guide a store clerk to a correct store location for restocking and/or repricing merchandise (Application at page 2, lines 13-16).

Clearly, these features are not taught or suggested by the cited references.

Indeed, the Examiner on page 5 of the Office Action, appears to be attempting to equate the display tags 20 in Swartzel with the shelf label of the claimed invention. However, nowhere does Swartzel teach or suggest that the display tags 20 display information regarding plural items of merchandise.

Moreover, the Examiner attempts to equate the front rail 22 of the shelves 24 in Swartzel with the shelf label holder of the claimed invention. However, nowhere does Swartzel teach or suggest that the front rail 22 includes an illumination device.

In fact, the Examiner attempts to equate the LED of the display tags 20 with the illuminating device of the shelf label holder. However, the Examiner is attempting to equate the front rail 22 of the shelves 24 (i.e., not the display tags 20) with the shelf label holder. Thus, it makes no sense for the Examiner to attempt to equate the LED of the display tags 20 with the illuminating device of the shelf label holder.

Further, even assuming that the LED of the display tags 20 may be confused with an "illuminating device" as in the claimed invention, nowhere does Swartzel teach or suggest that the LED includes a plurality of illuminating sections corresponding respectively to the plural items of merchandise.

Further, nowhere does Swartzel teach or suggest that the front rails 22 of the shelves 24 (which the Examiner attempts to equate with the shelf label holder of the claimed invention) includes a shelf control unit for controlling an illumination of the plurality of illuminating sections, the shelf control unit including a transceiver for wirelessly transmitting

and receiving signals.

Further, the Examiner appears to be also equating the display tag 20 in Swartzel with the hand-held unit of the claimed invention. Clearly, this is completely unreasonable. Indeed, Swartzel teaches simply that the "system controller 28 communicates with the display tags 20 through an area controller 31" and that "area controllers 31 communicate with the tags 20 using the 'loop' communication" (Swartzel at col. 4, lines 17-18). That is, nowhere does Swartzel teach or suggest that the display tag 20 includes an input device for inputting information regarding an item of merchandise of the plural items of merchandise, and a transceiver which wirelessly transmits a signal to a shelf control unit of the shelf control unit based on the input information regarding the item of merchandise.

Moreover, nowhere does Swartzel teach or suggest that the front rails 22 include a shelf control unit which receives the signal from the transceiver of a hand-held unit and causes a section of the plurality of illuminating sections which corresponds to the item of merchandise to illuminate based on the signal.

Further, nowhere are these features taught or suggested by Marvin. Indeed, the Examiner attempts to equate the display tag 34 in Marvin with the shelf label of the claimed invention.

However, Marvin teaches that the display tag 34 may display only an item name 48 for a single item. That is, nowhere does Marvin teach or suggest that the display tag 34 displays information regarding plural items of merchandise.

However, even assuming (arguendo) that the tag 34 may be equated with a "shelf label", nowhere does Marvin teach or suggest a shelf label holder including a shelf control unit which receives the signal from the transceiver of a hand-held unit and causes a section of the plurality of illuminating sections which corresponds to the item of merchandise to illuminate based on the signal. Therefore, Marvin clearly does not make up for the deficiencies in Swartzel.

Further, Johnson does not teach or suggest these features. In fact, Johnson simply discloses a shelf pricing display apparatus which includes an electronic display strip 4, a computing means for assigning the display strip 4 a unique strip address code, and a communication means for transmitting information from the computing means to the display strip 4 (Johnson at col. 4, lines 20-44).

That is, like Swartzel and Marvin, Johnson does not teach or suggest a shelf label holder including a shelf control unit which receives the signal from the transceiver of a hand-held unit and causes a section of the plurality of illuminating sections which corresponds to the item of merchandise to illuminate based on the signal. Therefore, Johnson clearly does not make up for the deficiencies in Swartzel and Marvin.

Likewise, Garber does not teach or suggest these features of the claimed invention. Indeed, Garber simply teaches a radio frequency identification (RFID) system which may includes RFID tags 110 which may be used, for example, in libraries. That is, like Swartzel, Marvin and Johnson, nowhere does Garber teach or suggest a shelf label holder including a shelf control unit which receives the signal from the transceiver of a hand-held unit and causes a section of the plurality of illuminating sections which corresponds to the item of merchandise to illuminate based on the signal.

Therefore, Garber clearly does not make up for the deficiencies of Swartzel, Marvin and Johnson.

Therefore, Applicant would submit that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention. Therefore, the Examiner is respectfully requested to withdraw this rejection.

III. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1-2, 4-13 and 21-24, 26 and 29-33, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

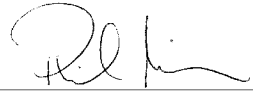
Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

Serial No. 09/825,879
Docket No. YOR920000070US1

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The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 50-0510.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Phillip E. Miller", is written over a horizontal line.

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Date: June 3, 2009

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